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Judith Tilton



INDIANA COMMISSION ON MENTAL HEALTH

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MEETING MINUTES¹

Meeting Date: September 25, 2000
Meeting Time: 9:30 A.M.
Meeting Place: State House, 200 W. Washington St.,
Room 128
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Rep. Susan Crosby, Chairperson; Rep. Gloria Goeglein; Sen. Steven Johnson; Robert Bonner; David Giles; Galen Goode; John Huber; Gloria Kardee; Jerri Lerch; Amelia Cook Lurvey.

Members Absent: Sen. Cleo Washington; Janet Marich; Stephen Spindler; Judith Tilton.

Representative Crosby called the Indiana Commission on Mental Health (Commission) to order at 9:45 a.m. The Commission then received testimony concerning issues surrounding Indiana's civil commitment laws.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Dean Rieger, M.D., Medical Services, Department of Correction

Dr. Rieger stated that the new Department of Correction (DOC) facility that is located in New Castle is planned to be finished and accept inmates in January 2002. This new facility is not expected to affect the number of out-date civil commitments that are sent to the Division of Mental Health (DMH). During the past few years there has been a downward trend in the number of out-date civil commitments (e.g. so far in 2000 there have been about 10 out-dates) from DOC facilities. Because of the lack of facilities for mentally ill juveniles, DOC still plans to send mentally ill juvenile offenders to DMH facilities. The New Castle facility will provide inmates more appropriate treatment than they are currently receiving in the existing DOC facilities. Dr. Rieger stated that the facility will have the following estimated bed capacities:

- 128 - Acute inpatient mental health.
- 144 - Assisted living.
- 648 - Sex offender.
- 700 - Substance abuse.

The DOC facility at Westville will close its acute inpatient mental health unit when the New Castle facility becomes operational. The plans for the future use of the Westville have not been made. DOC has not yet determined if inmates suffering from mental retardation and developmental disabilities (MR/DD) should be integrated or separated from other prison populations.

Dr. Rieger distributed information, by facility, on the number of adult offenders with a mental health medical classification, and the yearly number of out-date civil commitments to DMH facilities. (Exhibit #1)

Responding to a question from the Commission, Dr. Rieger stated that female offenders do not have their own acute inpatient mental health unit because of the overall low number of women who need this level of care. Most female offenders who need acute care mental health services are sent to a medical unit until they are stable and are then transferred to a mid-level unit.

Vicki Meyer, State Coordinator, Sex Offender Management and Monitoring, DOC

Ms. Meyer stated that based on studies that indicate the most effective treatment for sex offenders, intervention is not begun until the last three years of a sex offender's sentence. Most sex offenders, when they are released, are placed on either parole or probation. If a sex offender is on parole, DOC will monitor that person until the sentence is complete. The New Castle facility will allow DOC to provide more treatment options for sex offenders.

Dale Marion, Assistant Deputy Director, Office of Client Services, DMH

Mr. Marion provided the following information to the Commission:

- The number of DOC out-date civil commitments has decreased from 4 per month in 1997 to 1.5 per month in 2000. However, the typical out-date patient will spend years in the DMH system.
- Out-dates who are violent are sent to the Isaac Ray unit. If they become stable, they are then transferred to the Logansport facility.

- The number of patients who are referred to DMH because they are incompetent to stand trial has increased to nearly eight people per month. These patients are typically in a DMH facility 30-60 days.
- The waiting list to be admitted to a DMH facility is nearly zero for most of the facilities.
- The next budget will ask for a 14% increase for medications.
- DMH does not have a statewide formulary for its facilities.

The Commission requested that DMH provide information on the percent of the overall DMH population that are out-date civil commitments and incompetent to stand trial. The Commission also requested information on DMH's overall budget increase request for the upcoming state budget.

Hon. Evan Goodman, Judge, Marion County Criminal Court 16

Judge Goodman stated that he was the first judge in Indiana to preside over a mental health court. Concerning mental health cases, Indiana judges struggle between a patient's right to keep their medical records private and the public's right to a public trial. As a result, there is no uniformity among the courts on when public hearings are held in commitment cases and when the medical records are made public. Judges also struggle with how to make sure patients remain on medication or treatment plans. Judges used to use the threat of finding a person in contempt of court for failure to stay on their medication, until the Indiana Supreme Court ruled that under existing law the courts could not use contempt of court as a basis to require a person to stay on their medication. The courts' only option under existing law is to commit the person to a mental health facility. He stated that the current time limits for a person to remain committed were adequate to accurately assess an individual.

In response to questions by the Commission, Judge Goodman stated that the number of individuals who are found to be incompetent to stand trial will continue to increase each year because their out-patient mental health needs are not being met.

Commission member Dr. David Giles noted that when judges had the ability to find an individual in contempt of court for not staying on their mental health treatment this leverage worked fairly well in assuring compliance. He believes that reinstating this power would work well with judges who are familiar with mental health issues but was worried that in smaller courts that do not receive many mental health cases the results would be inconsistent. Dr. Giles was concerned that patients could end up in prison because they are mentally ill.

Steve Eicholtz, former Marion County Superior Court Mental Health Judge

Mr. Eicholtz discussed a diversion program for the mentally ill known as the Pear Program. This program is designed for mentally ill individuals who are in the criminal court system. If a person who is accepted into the program follows their mental health treatment plan for one year then the criminal charges are dismissed. Eighty individuals are currently in the program and last year a majority successfully completed the diversion program. Around the state many judges are finding mentally ill individuals who have committed lesser crimes incompetent to stand trial in order to get the individuals to follow a mental health treatment plan. If a diversion program were instituted in other counties the number of individuals who

are found incompetent to stand trial would decline. Mr. Eicholtz asked that legislation be passed that would allow mentally ill individuals who commit certain Class D felonies, and who are also approved by the local prosecutor to participate in the diversion program, to be allowed to take advantage of a mental health diversion program.

Dee Weeks, National Alliance for the Mentally Ill (NAMI), South Central Indiana Chapter

Ms. Weeks stated that her son is mentally ill and is in a Department of Correction (DOC) facility. DOC will not force a prisoner to take his mental health medication if he is not violent. While her son was at the Pendleton facility he was taken off his medication. The guards are not medical technicians and they do not care if a prisoner takes his medicines. After her son was taken off his medicine, his condition declined and he was severely beaten by some fellow prisoners (he suffered a ruptured trachea). Ms. Weeks would like to see mentally ill prisoners receive involuntary commitment so they will be required to take their medication and receive treatment while they are in prison. She would also like would like the standard used to determine if a person should be committed expanded beyond gravely disabled or a danger to themselves or others. She stated that Wisconsin's and New York's commitment laws are good examples of better civil commitment laws. She also noted that she favors California's pending assertive community treatment legislation.

The Chairperson adjourned the Commission meeting at 11:45 a.m.